

1873-007 Chancery Causes: Mary Hubbard & vs. Eli Hubbard, jr.  
Lee Co.

Bailey

CA-Estate Dispute

To the Honorable Henry J. Morgan Judge  
of the County Court of Lee County Virginia:

The Bill of Complaint of Mary Hubbard  
and Caroline N. Hubbard of Knoxville Tennessee  
and John W. Bailey of Lee County Virginia Humbly  
Complaining respectfully represents that One Eli  
Hubbard Sr. late of Lee County Virginia departed  
this life some time in the year 1863 have made  
his last will and testament by which he devised  
to the Said Mary Hubbard and Caroline N. Hubbard  
all his real estate which Consisted of a large  
and valuable tract of land lying and being  
about seven miles west of Jonesville in Lee  
County in what is called the Poor Valley and  
Said will was admitted to record in the  
County Court of Lee County and has never been  
annulled or set aside. The Said Mary Hubbard  
and Caroline N. Hubbard afterwards sold and  
Conveyed a certain boundary of Said land to  
Your Orator John W. Bailey so that the Said Ma-  
ry Hubbard Caroline N. Hubbard and John W. Bailey  
are the owners of the land devised by Eli Hubbard  
to Said Mary and Caroline who were his daughters  
but Your Orators will here state that after the  
Death of the Said Eli Hubbard his second wife  
gave birth to an infant son named Eli Hubbard  
Jr. who is still an <sup>about nine or ten years old</sup> infant, and is entitled to such por-  
tion of the Said Eli Hubbard Sr's. estate as he would  
have been entitled to at the Said Eli Hubbards death



in Case he had died intestate and Your Orators  
~~reserving to themselves any reversionary interest, they only have to his part~~  
& further allege that the Said Eli Hubbard Sr. had  
at his death seven Children living so that the  
infant Eli Hubbard Jr. makes the eighth and  
is therefore entitled to the one eighth part of  
the real estate of Said Eli Hubbard Sr. deceased  
after the payment of his debts which in Case he dies  
under the age of 21 without issue and unmarried reverts back to Said Mary & Caroline  
Now the object of this bill is to have a partition  
of the land of the Said Eli Hubbard Sr. and to  
lay off the part of said land to Said infant that  
he may be entitled to under the Circumstances and  
for Your Orators to raise his portion of Said estate  
out of what was devised and bequeathed to them  
contributing the same ratably either in kind or  
in money as the Court in this particular Case  
may deem most proper Subject to the reversionary interest  
aforesaid upon the Conditions aforesaid.  
Your Orators being without an adequate rem-  
edy at law and best relievable in a Court of  
Chancery their prayer therefore is that the Said  
Eli Hubbard Jr. infant Son of the Said Eli  
Hubbard Sr. deceased be made the party defendant  
to this bill and that he be summoned and required  
to answer said bill on oath and that a guardian  
ad litem be appointed to appear answer and  
defend for him in this Cause and that upon  
a hearing the Court will decree him his portion  
of the estate of Eli Hubbard deceased after the  
payment of Decedents debts either in kind or in  
money as the Court in this particular Case may deem  
most proper and such other further and

General relief be extended to your orators as may  
be consistent with equity and justice and best suited  
to their Case. May the Commonwealths writ of Habeas  
be issued directed &c.

David Miller,  
for Complainants



Mary Hubbard & others.

vs. Bill in Chy.

Eli Hubbard Jr.

1873 Jan'y term. By agreement  
of Parties, Bill filed, cause  
set for hearing. Decree for  
partition & costs.  
Feb. Decree Final

\$ 7.76  
Comod 15.00  
Ch. A. L. 11.00  
5.00  
\$ 38.76



Eli Hubbard Junr.  
ad<sup>4</sup> Mary  
Caroline ~~Hubbard~~ ad Litem  
John W Bailey.

} Answer of Guardian

And the said Eli Hubbard Jr.  
comes into Court, and by John D Sharp, his Guardian  
ad Litem makes answer to the bill of complaint  
filed in <sup>this Honorable</sup> Court by the Complainants.

For answer thereto he says that he is  
an Infant under twenty one years of age,  
and therefore wanting in legal discretion.

He says that he knows nothing of the facts  
stated in Complainants bill, and consequently  
neither admits, nor denies the allegations  
thereof. He therefore asks Your Honor to require  
full proof of the same.

He asks Your Honor to extend to him that  
protection, and all the privileges and rights, guar-  
anteed to persons of minor years by Courts  
of Equity.

Having fully answered, he prays to be hence  
dismissed with his Costs, expended in defending.

And he will ever pray &c.

Eli Hubbard Junr.

By John D Sharp, his Guardian ad Litem

Subscribed and sworn to before me by John D. Sharp this January 23rd 1873.  
James W Orr, Clerk.



Eli Hubbard Jr, By  
John D. Sharp, Guardian  
ad Litem,  
adts } Answer  
Caroline Hubbard  
and Others

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Filed at Jan'y Term 1878.  
James W. Corbett

Guardian fee \$5.00



Mary Hubbard & others Complt's. }  
 against Eli Hubbard Jr. } Dece final  
 Sept.

This Cause Came on this day again to be heard upon the papers formerly read in the Cause and the report of Charles C. Elliot Peter Bays and William J. Horton and the plat accompanying the same, Commissioners appointed by a former decree in this Cause to lay off and assign to the Defendant Eli Hubbard Jr. the one eighth part in value quantity and quality Considered of the real estate owned by Eli Hubbard Sr. at his death and bequeathed and devised to Complt's Mary & Caroline N. Hubbard by him and it appearing to the Court that said Commissioners report had been filed in the Clerks office in this Cause for more than ten days before this term of the Court and no exceptions having been filed thereto it is adjudged order and decreed that the same be and is hereby Confirmed and that the Defendant Eli Hubbard Jr. hold the lot of land laid off and allotted to him by said Commissioners as and for his eight part of the real estate of Eli Hubbard Sr. deceased & that the Complainants Mary Hubbard Caroline N. Hubbard and John N. Bailey hold the balance of said real estate according to their respective rights and interests in the same. But the said lot laid off and assigned to Eli Hubbard Jr. is subject to the reversionary interest of Complainants Mary Hubbard and Caroline N. Hubbard as the law directs that they may be entitled to therein in case the Defendant Eli Hubbard Jr. dies under twenty one years of age unmarried



and without issue. And it is further ordered  
adjudged and decreed that the Clerk of the  
County Court of Lee County admit to record in  
the deed book in his office the said report  
and plat accompanying the same and this decree  
And it is further ordered adjudged and decreed  
that Complainants Mary Hubbard and Caroline N.  
Hubbard pay seven eighths of the Taxable Costs  
of this Suit and that the <sup>Guardian of the</sup> Defendant Eli Hub-  
bard <sup>out of any personal assets in his hands due his wards if any</sup> pay the remaining eighth and that  
when his Guardian pays the same a receipt  
for the same will be a proper voucher in a  
Settlement with a Commissioner of accounts,  
and nothing farther appearing necessary to  
be done in this Cause it is hereby ordered to be  
Stricken from the docket

Enter this decree  
J. H. Morgan  
Feb. 10-1875.

Mary & Caroline  
Hubbard & others  
vs.  
Eli Hubbard Jr  
Entered Order Book  
page 212.  
James W. Orin, Clerk.



Mary Hubbard & others Plffs. }  
against Eli Hubbard Jr. } Decees in Chy  
Deft. }

The Plaintiffs this day filed their Bill in this Cause and on their motion John D. Sharp was appointed Guardian ad litem for the infant Defendant who asked leave to file his answer which being granted the same was accordingly filed and by the agreement of the Complainants by their Counsel and the Defendant by his guardian ad litem the service of process on the Defendant and the proceedings at rules in the Clerks office are all waived by them and the Cause is set for hearing by agreement and thereupon the Cause came on this day to be heard upon the Complainants Bill and the answer of Eli Hubbard Jr. by John D. Sharp his Guardian ad litem and was argued by Counsel On Consideration whereof the Court is of the opinion that in this particular <sup>case</sup> it is most proper that the defendant should have his portion of the real estate of Eli Hubbard Sr. deceased in kind, and therefore the Court doth hereby adjudge order and decree that Complainants Mary Hubbard and Caroline Hubbard contribute the same ratably out of what is devised and bequeathed to them by Eli Hubbard Sr. deceased subject however to the reversionary interest they may be entitled <sup>to</sup>, therein in case the Defendant dies under twenty one years of age unmarried and without issue, and the Court doth further order



adjudge and decree that Charles C. Elliott, Peter  
Bays and William P. Horton be and are hereby ap-  
pointed Special Commissioners whose duty it shall be  
to go upon the real estate owned by Eli Hubbard Sr.  
deceased and devised by him to Complainants Mary &  
Caroline N. Hubbard and lay off and assign to the  
Defendant the one eighth part in value of said real  
estate quantity and quality considered and they  
will report their proceedings together with fair  
plat of the land & the part laid off and assigned  
to a future term of this Court and the Cause is  
Continued.

Enter This Decree  
Henry Morgan  
Jan 23/73

Mary Hubbard & others  
vs.  
Decree  
Eli Hubbard Sr.  
Entered Order Book page  
200.  
James W. Criswell.



Virginia.

A county court continued and held for Lou County  
at the court house thereof on the 23d day of January 1878.

Mary Hubbard et al

Plaintiffs

against

Eli Hubbard Jr

Defendant

} In Chancery

The plaintiffs this day filed their bill in the cause, and on their motion John D. Sharp was appointed Guardian ad litem for the infant defendants who asked leave to file his bill answer which being granted the same was accordingly filed, and by the agreement of the complainants by their attorney and the defendant by his guardian ad litem the service of process on the defendant and the proceedings at rules are all waived by them and the cause set for hearing by agreement of the parties and thereupon the cause came on this day to be heard upon the plaintiffs bill and the answer of Eli Hubbard Jr by John D. Sharp his Guardian ad litem and was argued by counsel. On consideration whereof the Court is of opinion that in this particular case it is most proper that the defendant should have his portion of the real estate of Eli Hubbard Jr deceased in kind and thereupon the court doth hereby adjudge, order and decree that complainant Mary and Caroline Hubbard contribute ratably out of what is bequeathed and devised to them by Eli Hubbard Jr deceased subject however to the reversionary interest they may be entitled to therein in case the defendant dies under the age of 21 years of age, unmarried and without issue. And the court doth further order adjudge and decree that Charles C. Elliott, Peter Bay and William P. Harton be and are hereby appointed Special Commissioners whose duty it shall be to go upon the real estate owned by Eli Hubbard Jr deceased and devised by him to complainant to Mary and Caroline Hubbard and lay off and assign to the defendant the one eighth part in value of said real



estate, quantity and quality considered, and they will  
report their proceedings together with a fair plat of the land  
and the part laid off and assigned to a further term  
of this court, and this cause is continued.

A copy

Teste W<sup>m</sup> A. Crall.



Virginia.

At a county court continued and held for Lee County  
at the court house thereof on the 23d day of January 1873

Mary Hubbard et als

Plaintiffs

against

Eli Hubbard Jr

Defendant

In Chancery

The plaintiffs this day filed their bill in the cause, and on their motion John D. Sharp was appointed Guardian ad litem for the infant defendant, who asked leave to file his answer and leave being granted the same was accordingly filed, and by the agreement of the complainants by their counsel and the defendant by his Guardian ad litem the service of process on the defendant and the proceedings at rules in the Clerk's Office are all waived by them and the cause set for hearing by agreement of the parties, and thereupon the cause came on this day to be heard upon the bill of the plaintiffs and the answer of Eli Hubbard Jr by John D. Sharp his Guardian ad litem and was argued by counsel. On consideration whereof the court is of opinion that in this particular case it is most proper that the defendant should have his portion of the real Estate of Eli Hubbard Sr deceased in hand and thereupon the court doth order, order and decree that complainants Mary Hubbard and Caroline Hubbard contribute the same ratably out of what is devised and bequeathed to them by Eli Hubbard Sr deceased subject however to the remainder interest they may be entitled to therein, in the case the defendant dies under the age of 21 years of age unmarried and without issue, and the court doth further order, order and decree that Charles C. Elliott, Peter Boye, and William P. Harton be and are hereby appointed Special Commissioners whose duty it shall be to go upon the real estate owned by Eli Hubbard Sr deceased and devised by him to complainants Mary & Caroline Hubbard and lay off and assign to the defendant



the one eighth part in value of said real estate, quantity & quality considered, and they will report their proceedings together with a fair plat of the land and the part laid off and assigned to a future term of this court, and this cause is continued.

A copy

Teste - Wm A. On. D. L.

Wm. Hubbard et al  
vs  
Copy of Deeds  
E. C. Hubbard Jr  
Did not leave office  
Dec 11<sup>th</sup> or 12<sup>th</sup>.



Virginia

At a county court continued and held for Lee County, at  
the Court House thereon the 23d day of January 1873

Mary Hubbard et al

Plaintiffs

against

Eli Hubbard Jr.

Defendants

In Chancery

The plaintiffs this day filed their bill in the cause, and on  
their motion John D. Sharp was appointed Guardian ad litem  
for the infant defendants who asked leave to file his answer  
which being granted the same was accordingly filed, and by  
the agreement of the complainants by their counsel and the  
defendant by his Guardian ad litem the service of process  
on the defendant, and the proceedings at rules in the Clerk's  
Office are all waived by them and the cause set for hearing  
by agreement of the parties and thereupon the cause came on  
this day to be heard upon the plaintiffs bill and the answer  
of Eli Hubbard Jr. by John D. Sharp his Guardian ad litem  
and was argued by counsel. On consideration whereof the  
court is of opinion that in this particular case it is most  
proper that the defendant should have his portion of the  
real estate of Eli Hubbard Sr. deceased in kind and  
thereupon the court doth hereby adjudge, order and decree that  
complainant Mary Hubbard and Caroline Hubbard contribute  
the same ratably out of what is devised and bequeathed to  
them by Eli Hubbard Sr. deceased subject however to the  
reversionary interest they may be entitled to therein in case the  
defendant dies under 21 years of age unmarried and without  
issue, and the court doth further order adjudge and decree that  
that Charles E. Elliott, Peter Benz and Mr. P. Norton be and  
are hereby appointed Special Commissioners whose duty it  
shall be to go upon the real estate owned by Eli Hubbard  
Sr. deceased and devised by him to complainants Mary and  
Caroline Hubbard and lay off and assign to the defendant  
the one eighth part in value of said real estate, quantity and



quality considered, and they will report their proceedings  
together with a fair plat of the land and the part  
land off and assigned to a future term of this  
Court, and this cause is continued.

A copy

Teste - Jm A. Orville



Virginia

At a county court continued and held for Lee County, at  
the Court House thereof the 23d day of January 1872.

Mary Hubbard & others

Plaintiffs

against

Eli Hubbard Jr

Defendant

Lee County

The plaintiffs this day filed their bill in the cause, and on  
their motion John D. Sharp was appointed Guardian ad litem  
for the infant defendant, who asked leave to file his answer which  
being granted the same was accordingly filed, and by the  
agreement of the complainants by their counsel, and the  
defendant by his Guardian ad litem the service of process on  
the defendant, and the proceedings at rules in the clerk's office  
are all waived by them and the cause set for hearing by agree-  
ment of the parties, and thereupon the cause came on this day to  
be heard upon the plaintiffs bill and the answer of Eli Hubbard Jr  
by John D. Sharp his Guardian ad litem and was argued by  
counsel. On consideration whereof the court is of opinion that  
in this particular case it is most proper that the defendant should  
have his portion of the real estate of Eli Hubbard Sr deceased in  
land and thereupon the court doth hereby adjudge, order and  
decree that complainants Mary Hubbard and Caroline  
Hubbard contribute the same ratably out of what is  
devised and bequeathed to them by Eli Hubbard Sr  
deceased, subject however to the reversionary interest  
they may be entitled to therein in case the defendant  
die under twenty one years of age unmarried and  
without issue, and the court doth further order,  
adjudge and decree that Charles L. Elliott, Peter  
Bays and Mr P. Horton be and are hereby appointed  
Special Commissioners whose duty it shall be to go  
upon the real estate owned by Eli Hubbard Sr  
deceased and devised by him to complainants Mary &  
Caroline Hubbard and lay off and assign to the



defendant the one eighth part in value of said real estate  
quantity and quality considered and they will report  
their proceedings together with a fair plat of the land  
and the part laid off and assigned to a future  
term of this Court and this cause is continued.

A copy

Teste - Wm A. Crockett.



Mary Hubbard & others Complainants } Report of  
against } Commissioners  
Eli Hubbard Jr. Defendant }

To the Honorable Henry J. Morgan Judge of the  
County Court of Lee County:

Pursuant to a decree of the County Court  
of Lee County made and entered at the January  
term thereof 1873 in the Cause in Chancery of  
Mary Hubbard and others against Eli Hubbard  
Jr. the undersigned who were appointed Special  
Commissioners by Said Decree to lay off and  
assign to the Defendant Eli Hubbard Jr. the one  
eighth part in value of the real estate of Eli  
Hubbard Sr. deceased which was devised and be-  
queathed to Complainants Mary and Caroline N.  
Hubbard by Said Eli Hubbard Sr. deed, quantity  
and quality Considered and Having performed  
the duties assigned to us by Said decree we  
hereby report as follows to wit:

We first made an estimate of the land  
Eli Hubbard Sr. owned at his death and after  
Some Surveying we ascertained that the quantity  
owned by him at his death and which he  
devised and bequeathed to Complainants Mary  
and Caroline N. Hubbard was something less  
than One thousand acres and over nine hun-  
dred acres and one eighth part in quantity  
would be about one hundred and twenty  
acres but the defendants part being but a  
small part of the entire tract we could not  
lay it off so as to give him any part  
of the buildings and we thought it best  
to lay his part off on the South west end  
of the tract and to give him a larger quantity



of land and we also gave him a larger quantity of land for the additional reason that he gets a larger proportion of Mountain land which is not so valuable as the land in the Poor valley and on the Poor valley ridge and for these reasons we considered that 60 acres added to the 120 acres to compensate for the lack of buildings and the excess of mountain land would make about one eighth part in value quantity and quality considered and we therefore laid off to the Defendant Eli Hubbard Jr. One hundred and eighty acres of Said land on the <sup>South</sup> west end and bounded as follows to wit:

Beginning at a whiteoak and two small beeches on a spur on the north side of Poor valley ridge about 18 poles from the foot of said ridge the beginning corner of a survey made by Eli Hubbard and with the lines thereof S 6 E 49 poles to two chestnuts on the top of said ridge thence N 85 E 73 poles to a stake on a line of said survey thence leaving said line N 20 W 300 poles parallel with John W. Baileys South west line to a stake on top of Cumberland mountain and with the top of said mountain as it meanders about 160 poles Southwestwardly to a stake and rock in the Harris gap a corner to a survey made by Eli Hubbard Sr. and with lines thereof S 22 E 130 poles to two hickorys gum and spotted oak on Frederick McDonalds line and with the same N 63 E 90 poles to three chestnuts a corner to said McDonald S 26 1/2 E 92 poles to a poplar in a flat S 6 W 20 poles to the beginning containing one hundred and eighty acres be the same more or less.

And we hereby return with this our report a fair plat of the entire tract of land and the one eighth part we have laid off and assigned to the Defendant Eli Hubbard Jr. but this plat includes a considerable quantity of land that is claimed, ~~to be~~ held by other parties under adverse and Superior titles which lies on the South east part of said tract and this part we did not take into consideration in our estimate of the quantity of the entire tract but no part of the 180 acres laid off and assigned to the Defendant Eli Hubbard Jr. is covered by any part of these <sup>claims of</sup> adverse and Superior titles.

All of which is respectfully submitted to Your Honor, on this the 5th day of February 1873.

Charles C. Elliot  
Peter Bays  
Wm. J. Horton } Commissioners

Commissioners Fees.

Charles C. Elliot \$5.00  
Peter Bays \$3.00  
Wm. J. Horton \$3.00



Mary Hubbard & others  
vs. } Commissioners  
      } Report.

Eli Hubbard Jr.

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Filed February 5th 1873.  
James W. Orr Clk.

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Recorded in Dual  
Book No. 16 pag 614  
Jas W. Orr Clk



The Commonwealth of Virginia :

TO THE SHERIFF OF LEE

COUNTY—GREETING :

WE command you to summon

*Eli Hubbard Jr.*

to appear at the clerk's office of the county court of Lee, at the court house, on the first  
Monday in *February* next, being rule day, to answer *Mary Hubbard*

*Caroline N. Hubbard; John W. Bailey of a bill in  
Chancery.*

And have then there this writ. Witness JAS. W. ORR, clerk of our said court at the  
court house, the *23d* day of *January* 1872, in the *97th* year  
of the Commonwealth.

*Wm. A. Orr D.C.*



20	-30	1.00
10	-90	.20
18		.30
15		.40
14		.50
13		.60
12		.70
11		.80
10		.90
9		1.00
8		1.10
7		1.20
6		1.30
5		1.40
4		1.50
3		1.60
2		1.70
1		1.80
		1.90
		2.00
		2.10
		2.20
		2.30
		2.40
		2.50
		2.60
		2.70
		2.80
		2.90
		3.00

Mary Hubbard et al

vs E. Spa. Chy.

Eli Hubbard Jr.

Feb. Rules 1872.